

Application No. 10/737,050
Amendment dated August 4, 2005
Reply to Office Action dated May 4, 2005

REMARKS

Claims 2, 9, 10, and 12 have been amended. Claims 1-20 are currently pending in the application.

The Examiner objected to claims 2, 9, 10, and 15 because the terms "I", "Q", and "CCDF" are unclear. Applicant has amended claims 2, 9, 10, and 12 to remove these informalities so such objection is now moot.

The Examiner objected to claims 3-6, 14-16, and 18-19 for being dependent upon a rejected base claim. The Examiner stated claims 3-6, 14-16, and 18-19 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Examiner rejected claim 1 under 35 USC § 102(e) as being anticipated by Hamilton et al. (USPN 2004/0024801A1; hereinafter "Hamilton"). The Examiner rejected claim 12 under 35 USC § 103(a) as being unpatentable over Hamilton in view of Dent (USPN 6,226,271). The Examiner rejected claims 2 and 8-11 under 35 USC § 103(a) as being unpatentable over Hamilton in view of Leffel (USPN 2005/0057303). The Examiner rejected claim 7 under 35 USC § 103(a) as being unpatentable over Hamilton in view of Abercrombie et al. (USPN 6,275,920; hereinafter "Abercrombie"). The Examiner rejected claim 17 under 35 USC § 103(a) as being unpatentable over Hamilton in view of Dent and further in view of Leffel. The Examiner rejected claim 20 under 35 USC § 103(a) as being unpatentable over Hamilton in view of Dent and further in view of Abercrombie. The objection and rejections are respectfully traversed and Applicant requests reconsideration of the application.

102(e) Rejection

In order for a reference to anticipate an invention, each and every element of the claimed invention must be found in a single reference. The "identical invention

Application No. 10/737,050
Amendment dated August 4, 2005
Reply to Office Action dated May 4, 2005

must be shown in as complete detail as is contained in the ... claim. The elements must be arranged as required by the claim..." MPEP Section 2131. Applicant respectfully submits that Hamilton does not anticipate Applicant's claimed invention because Hamilton does not teach every element of the claimed invention.

Independent claim 1 recites, in relevant part, "wherein the processing apparatus stores counts of the plurality of floating-point numbers using each floating-point number as an address for a corresponding histogram bin in the memory." The Examiner argues Hamilton teaches the use of a floating-point number as an address for a histogram bin in figure 1 and in paragraphs [0004] through [0011]. Figure 1, however, illustrates a histogram and does not illustrate the use of a floating-point number as an address for a histogram bin.

Paragraphs [0004] through [0011] in Hamilton describe figure 1. In particular, paragraph [0005] discloses a technique for determining a histogram bin number (b) for each data sample. Hamilton states the bin number may be ascertained by calculating the base-10 logarithm of the data sample, multiplying it by 100, and then truncating the result. Paragraphs [0006] through [0009] describe the equations used in the calculations of the bin numbers.

Applicant submits paragraphs [0004] through [0011] do not disclose the use of a floating-point number as an address for a histogram bin, but rather the use of a *fixed-point number* as a bin number (see [0005]). The process of calculating the base-10 logarithm of the data sample, multiplying it by 100, and then truncating the result describes the determination of a fixed-point number. The use of the floor function in paragraph [0009] supports Applicant's position, as the floor function is a well known mathematical function. The floor function may be defined as follows: for a real number x , $\text{floor}(x)$ is the largest integer less than or equal to x . Thus, the equation $b = \text{floor}(100 (\log_{10} P))$ produces the largest integer less than or equal to $(100 (\log_{10} P))$.

Application No. 10/737,050
Amendment dated August 4, 2005
Reply to Office Action dated May 4, 2005

It does not produce a floating-point number. Therefore, for at least the following reason, Hamilton does not anticipate Applicant's claim 1.

103(a) Rejections

Common Ownership

Applicant respectfully submits Hamilton should be excluded from consideration under the obviousness rejections pursuant to 35 USC § 103(c). Section 103(c) states:

Subject matter developed by another person, which qualifies as prior art only under one or more subsections (e), (f), and (g) of Section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Hamilton qualifies as prior art only under 35 USC § 102(e). At the time the invention in Application 10/737,050 was made, Hamilton and the present application were subject to an obligation of assignment to the same entity, Agilent Technologies, Inc. Thus, under 35 USC § 103(c), Hamilton should not be considered when determining whether Applicant's claimed invention is obvious under 35 USC § 103. See MPEP Section 706.02(l)(1).

Because Hamilton is included in all of the obviousness rejections, Applicant submits these rejections are now moot in light of 103(c). Applicant therefore requests the withdrawal of the obviousness rejections.

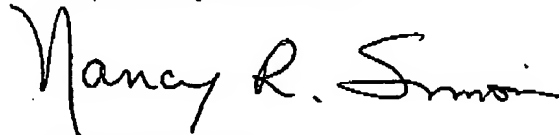
In light of the amendments and discussion above, Applicant believes that all

Application No. 10/737,050
Amendment dated August 4, 2005
Reply to Office Action dated May 4, 2005

claims currently remaining in the application are allowable over the prior art, and respectfully requests allowance of such claims.

Respectfully submitted,

Date: August 4, 2005

A handwritten signature in black ink that reads "Nancy R. Simon". The signature is written in a cursive, flowing style.

Nancy R. Simon
Attorney for Applicant
Reg. No. 36,930
19925 Stevens Creek Boulevard
Cupertino, California 95014-2358
Tel. (408)973-7872; Fax (408) 973-7282